

## **2013 DRAFTING REQUEST**

### **Bill**

Received:	<b>12/18/2013</b>	Received By:	<b>jkreye</b>
Wanted:	<b>As time permits</b>	Same as LRB:	
For:	<b>Mike Kuglitsch (608) 267-5158</b>	By/Representing:	<b>matt</b>
May Contact:		Drafter:	<b>jkreye</b>
Subject:	<b>Tax, Business - credits</b>	Addl. Drafters:	<b>mgallagh</b>

Extra Copies:

Submit via email:	<b>YES</b>
Requester's email:	<b>Rep.Kuglitsch@legis.wisconsin.gov</b>
Carbon copy (CC) to:	<b>joseph.kreye@legis.wisconsin.gov</b> <b>michael.gallagher@legis.wisconsin.gov</b>

---

### **Pre Topic:**

No specific pre topic given

---

### **Topic:**

Reallocating unused angel and early stage seed investment credits

---

### **Instructions:**

See attached

---

### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 12/19/2013			_____			
/P1	jkreye 12/30/2013	scalvin 12/19/2013	jmurphy 12/19/2013	_____	sbasford 12/19/2013		
/P2	jkreye	scalvin	jfrantze	_____	sbasford		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/10/2014	1/8/2014	1/8/2014	_____	1/8/2014		
/P3	jkreye 1/16/2014	scalvin 1/13/2014	jfrantze 1/13/2014	_____	lparisi 1/13/2014		
/P4	jkreye 1/21/2014	scalvin 1/16/2014	jfrantze 1/17/2014	_____	sbasford 1/17/2014		
/1		scalvin 1/21/2014	rschluet 1/21/2014	_____	lparisi 1/21/2014	lparisi 1/21/2014	State

FE Sent For:

01-21-2014  
("1")

<END>

per JK

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*jacket mark /  
and submit  
FE  
joe*

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### Topic:

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### Instructions:

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*5/11/14*

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/P4		scalvin 1/16/2014	jfrantze 1/17/2014	_____ _____	sbasford 1/17/2014		

FE Sent For:

/1 sac  
01/21/2014

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<END>

/1  
1-21-14  
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FE Sent For:	1/14 SAC 01/16/2014	1/14 SAC 01/16/2014	R3 1/14
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<END>

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**Topic:**

## Reallocating unused angel and early stage seed investment credits

**Instructions:**

See attached

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Vers. Drafted

Reviewed  
1/8/2014

Typed  
1/8/2014

Proofed

Submitted  
1/8/2014


Jacketed

Required

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1P3 sac  
01/10/2014

1P3 sac  
01/13/2014

  
1/13

<END>



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/?	jkreye 12/19/2013						
/P1		scalvin 12/19/2013	jmurphy 12/19/2013		sbasford 12/19/2013		
FE Sent For:		/P2 sac 01/03/2014	/P2 sac 01/03/2014				

<END>

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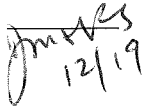
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/?	jkreye	/PI sac 12/19/2013	/PI sac 12/19/2013	 12/19			

FE Sent For:

<END>

Meeting 12-18-13

**Kreye, Joseph**

**From:** Spencer, Matt  
**Sent:** Friday, December 13, 2013 10:06 AM  
**To:** Kreye, Joseph  
**Subject:** RE: Sale of Act 255 credits

RM 129 W

11AM

I just spoke to the others and Wednesday works better. How about 11am?

----- Original message -----

**From:** "Kreye, Joseph" <[Joseph.Kreye@legis.wisconsin.gov](mailto:Joseph.Kreye@legis.wisconsin.gov)>  
**Date:** 12/13/2013 9:12 AM (GMT-06:00)  
**To:** "Spencer, Matt" <[Matt.Spencer@legis.wisconsin.gov](mailto:Matt.Spencer@legis.wisconsin.gov)>  
**Subject:** RE: Sale of Act 255 credits



**Stephen Lyons**  
President

e: [slyons@whdlaw.com](mailto:slyons@whdlaw.com)  
p: 608.220.7478  
f: 608.258.7131

In cooperation with  
Whyte Hirschboeck Dudek S.C.  
[whdlaw.com](http://whdlaw.com)

Wisconsin Growth Capital Coalition  
33 East Main Street, Suite 300  
P.O. Box 1379  
Madison WI 53701-1379  
[wisconsininvests.com](http://wisconsininvests.com)

I am available. Just let me know when would be a good time to come over. I'm generally here by 9 a.m.

**Joseph T. Kreye**

Senior Legislative Attorney

Legislative Reference Bureau

608 266 2263

---

**From:** Spencer, Matt  
**Sent:** Thursday, December 12, 2013 4:29 PM  
**To:** Kreye, Joseph  
**Subject:** Sale of Act 255 credits

Good Afternoon,

Our office is working on legislation that would make unused Act 255 credits available for sale each fiscal year to create another field for. My boss was wondering if you were available next Tuesday to discuss a draft with a few other parties.

Thanks

Matthew Spencer

Office of Representative Mike Kuglitsch

(608) 267-5158

12-18-13

Rep Kugler & Matt

unallocated angel & early stage seed credits  
(unused)  
selling to other investors

using a partial amount to reallocated  
to entities that invest in other in state  
companies (early stage)

\* some rules that apply to act 255 for qualified  
ventures

fund making an exploration  
dollar for dollar credits (100% the value of  
the credit)  
— invested in act 255 certified fund

\* 25% + 50% of unused credits  
reallocated this way  
then actual \$ to give to  
investors  
50% of credits go  
to job from scratch  
leaves 50% of unused for job credit

evaluating as to the effectiveness  
over a period of time  
no doubling of credits

— reporting requirements  
from WERC

— funds disclosed study  
— into certified companies  
— profits reported and  
collected

\* an allocation of tax certificates to the fund manager  
— transfer to the fund manager  
an earned credit as opposed to the rule

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is to memorialize the intent of \_\_\_\_\_ (the "Fund") and the Wisconsin Economic Development Corporation (the "Corporation") to enter into an agreement regarding the allocation of Wisconsin tax benefits ("WTBs") to Fund by the Corporation pursuant to s. 238.301 et seq.

It is understood by the Corporation and the Fund (the "Parties") that:

1. As this document is an expression of intent of the Parties, neither this document nor the terms and conditions set forth herein shall be binding upon the Parties.
2. The Corporation shall allocate \$20,000,000 in WTBs to the Fund to be utilized by entities that invest in the Fund and are admitted as limited partners (the "Special LPs") of the Fund. The WTBs will be utilized at a rate not to exceed 25% per year beginning with calendar year 2014. The date of receipt of investment from and the admission of the Special LPs shall occur during 2014 and is hereinafter referred to as the "Admission Date."
3. The Fund shall provide matching capital, that when combined with the investments from the Special LPs, equals an amount necessary to capitalize the fund with a total sum equal to 100% of the WTBs allocated to the Fund by the Corporation (the "Matching Capital Contribution").
4. The Fund shall invest \$20,000,000 in businesses certified under s. 238.15 ("QNBVs"). The maximum investment the Fund may make in a QNBV, exclusive of reinvestments or investments of follow-on capital, shall be \$\_\_\_\_\_.
5. The Fund shall make the investments described in (4.) in QNBVs within three years of the Admission Date. Capital repaid or returned to the Fund by QNBVs must be reinvested in other QNBVs and shall not be counted toward the requirement set forth in (4.). Funds invested must remain invested for a period of five years in total in one or more QNBVs. Failure to satisfy the requirements of this paragraph shall result in the recapture of WTBs.
6. The Fund may make the following "Special Distributions" at any time:
  - (a) Payment of a management fee of 2% per year on the amount of capital invested in QNBVs;
  - (b) Reasonable costs and expenses for professional services, including legal and accounting services, related to the formation and operation of the Fund; and

(c) Tax distributions to its equity owners related to any projected increase in federal or state taxes.

7. The Fund may make a distribution or payment other than a Special Distribution upon the date upon which the Fund has met the requirements of (5.).

8. The Fund shall distribute 50% of all distributions originating as a return of capital or a return on capital to the State of Wisconsin other than Special Distributions and the repayment of the Matching Capital Contribution plus 5%.

9. The Corporation shall provide tax credit certificates to each Special LP that may utilize WTBs for filing with such Special LP's premium tax return to be filed with the Wisconsin Office of the Commissioner of Insurance. Failure to reach the requirement of (4.) within 3 years of the Admission Date shall result in cancellation of the certificates.

10. The Corporation shall obtain an opinion from the Attorney General regarding the due authorization and allocation of WTBs to the Fund and the Special LPs.

11. This Memorandum of Understanding is subject to the execution of a formal contract by and between the Parties.

Accepted and agreed to this \_\_\_\_ day of November, 2013, by:

[FUND]

By: \_\_\_\_\_

WISCONSIN ECONOMIC DEVELOPMENT CORPORATION

By: \_\_\_\_\_

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3854/P1dn

JK:/:....

*Sac*

*-date-*

Representative Kuglitsch:

\* Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on ~~the~~ my notes, and the materials I received, from our meeting on Wednesday, December 18, 2013.

Please note that I included a provision that requires the corporation to notify the Committee on Joint Finance, subject to 14-day passive review, of any proposed allocation of unused early stage seed investment credits. This provision is similar to the one under current law related to the reallocation of unused early stage seed investment credits to be used for the jobs tax credit. Is that consistent with your intent?

Joseph T. Kreye  
Senior Legislative Attorney  
Phone: (608) 266-2263  
E-mail: joseph.kreye@legis.wisconsin.gov





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3854/P1

JK:/:....

Sac

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

in thru 12-19  
due Friday 12-27  
DN

1 AN ACT <sup>gen cat</sup> relating to: the allocation of unused early stage seed investment  
2 credits.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 SECTION 1. 238.15 (3) (dm) of the statutes is created to read:

4 238.15 (3) (dm) <sup>Ⓢ</sup> Reallocation 1. Beginning in 2014, and in each year thereafter, the  
5 corporation may allocate at least 25 percent, but no more than 50 percent, of the  
6 unallocated credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638 to  
7 investment fund managers certified under sub. (2) so that the fund managers may  
8 allocate the credits to persons who make investments in businesses certified under  
9 sub. (1) and for which credits may be claimed under s. 71.07 (5b), 71.28 (5b), 71.47

(5b), or 76.638. A certified investment fund manager wishing to receive unallocated credits under this paragraph shall apply for the credits in the manner provided by the corporation. A fund manager who receives unallocated credits under this subdivision shall allocate 100 percent of the amount of the credits to investors and no investor may claim such a credit unless the combined amount invested by the investor and the fund equals 100 percent of the credit amount claimed by the investor.

2. A fund manager shall allocate the credits received under subd. 1. no later than 3 years after the date on which the credits are received. Credits that are not reallocated by the fund manager before the end of the 3-year period may be allocated by the corporation, as provided under par. (c) (d)

3. For purposes of this paragraph, a fund manager shall make investments in businesses certified under sub. (1) no later than 3 years after the date on which the fund manager allocates credits received under subd. 1. The fund manager shall keep the investments invested in one or more businesses certified under sub. (1) for 5 years.

4. With regard to the investments made as provided under this paragraph, the fund manager shall pay 50 percent of all distributions as a return of capital, or a return on capital, to the state, less the following amounts:

a. Management fees not exceeding 2 percent a year on the amount of capital invested in businesses certified under sub. (1).

b. Reasonable costs and expenses for professional services, including legal and accounting services, related to forming and operating the fund.

c. Tax distributions to equity owners related to any projected increase in federal or state taxes.

1 d. An amount equal to a matching capital contribution, plus 5 percent of that  
2 amount.

3 5. A fund manager who receives credits under subd. <sup>Δ</sup>1. shall retain the services  
4 of an independent 3rd party to evaluate the effectiveness of the reallocation of credits  
5 as provided under this paragraph<sup>✓</sup> and to ensure that funds are timely disbursed, that  
6 investments are made in businesses certified under sub. (1), and <sup>✓</sup> ~~and~~ <sup>that</sup> profits are reported  
7 and disbursed <sup>under</sup> pursuant to subd. 4. Annually, the independent 3rd party shall submit  
8 its evaluation to the fund manager and to the corporation and the corporation shall  
9 submit the evaluation to the members of the joint committee on finance.

10 6. If a fund manager or investor fails to comply with the requirements under  
11 this paragraph<sup>✓</sup>, the corporation shall rescind the allocation of credits to the fund  
12 manager and recapture the amount of any such credits claimed by the investor, in  
13 the manner determined by the corporation.

14 7. The corporation may allocate credits as provided under subd. <sup>✓</sup>1. only if all  
15 of the following apply:

16 a. The corporation notifies the joint committee on finance in writing of its  
17 proposed allocation.

18 b. The cochairpersons of the joint committee on finance either fail to notify the  
19 corporation, within 14 working days after the date of the corporation's notification  
20 under subd. 7. <sup>✓</sup>a., that the committee has scheduled a meeting for the purpose of  
21 reviewing the proposed allocation or the cochairpersons of the joint committee on  
22 finance notify the corporation that the committee has approved the proposed  
23 allocation.

1           8. The corporation shall notify the department of revenue of all credits  
2 allocated to fund managers under this paragraph and the fund managers shall notify  
3 the corporation and the department of all such credits allocated to investors.

4 (END)

D-note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3854/P1dn

JK:sac:jm

December 19, 2013

Representative Kuglitsch:

Please review this draft carefully to ensure that it is consistent with your intent. This draft is based on my notes, and the materials I received, from our meeting on Wednesday, December 18, 2013.

Please note that I included a provision that requires the corporation to notify the Committee on Joint Finance, subject to 14-day passive review, of any proposed allocation of unused early stage seed investment credits. This provision is similar to the one under current law related to the reallocation of unused early stage seed investment credits to be used for the jobs tax credit. Is that consistent with your intent?

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E-mail: [joseph.kreye@legis.wisconsin.gov](mailto:joseph.kreye@legis.wisconsin.gov)

## Kreye, Joseph

---

**From:** Spencer, Matt  
**Sent:** Monday, December 23, 2013 9:36 AM  
**To:** Kreye, Joseph  
**Subject:** FW: Draft review: LRB -3854/P1 Topic: Reallocating unused angel and early stage seed investment credits

Mr. Kreye, I am passing along some notes from my boss and the two others in the meeting. If you have any questions please let me know.

Pg. 2, lines 3-7, strike all of said lines and replace with:

"manner provided by the corporation." A fund manager who receives unallocated credits under this subdivision shall allocate the entire amount to investors and no investor may claim such credits unless the total amount committed for investment by the investors and the fund equals or exceeds 100% of the amount of the credits allocated to the fund manager. The corporation shall certify the amount of matching capital that is invested in order to meet this requirement and that capital shall not be subject to the 50 percent distribution split provided in subs. 4. The corporation shall not consider the reinvestment of any proceeds of a prior investment under this subsection as matching capital.

Pg 3, line 11, strike the word "paragraph" and insert "subd (3)"

Thanks for all your help on this and getting us a draft back so quickly.

Regards,

Matthew Spencer



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3854/P1  
JK:sac:mf

P2  
[Signature]

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SOON

in Monday  
12-30

gen cast

1 **AN ACT to create** 238.15 (3) (dm) of the statutes; **relating to:** the allocation of  
2 unused early stage seed investment credits.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 **SECTION 1.** 238.15 (3) (dm) of the statutes is created to read:  
4 238.15 (3) (dm) *Reallocation.* 1. Beginning in 2014, and in each year  
5 thereafter, the corporation may allocate at least 25 percent, but no more than 50  
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7 76.638 to investment fund managers certified under sub. (2) so that the fund  
8 managers may allocate the credits to persons who make investments in businesses  
9 certified under sub. (1) and for which credits may be claimed under s. 71.07 (5b),

1 71.28 (5b), 71.47 (5b), or 76.638. A certified investment fund manager wishing to  
2 receive unallocated credits under this paragraph shall apply for the credits in the  
3 manner provided by the corporation. A fund manager who receives unallocated  
4 credits under this subdivision shall allocate 100 percent of the amount of the credits  
5 to investors and no investor may claim such a credit unless the combined amount  
6 invested by the investor and the fund equals 100 percent of the credit amount  
7 claimed by the investor. *Insert 2-7*

8 2. A fund manager shall allocate the credits received under subd. 1. no later  
9 than 3 years after the date on which the credits are received. Credits that are not  
10 reallocated by the fund manager before the end of the 3-year period may be allocated  
11 by the corporation, as provided under par. (d).

12 3. For purposes of this paragraph, a fund manager shall make investments in  
13 businesses certified under sub. (1) no later than 3 years after the date on which the  
14 fund manager allocates credits received under subd. 1. The fund manager shall keep  
15 the investments invested in one or more businesses certified under sub. (1) for 5  
16 years.

17 4. With regard to the investments made as provided under this paragraph, the  
18 fund manager shall pay 50 percent of all distributions as a return of capital, or a  
19 return on capital, to the state, less the following amounts:

20 a. Management fees not exceeding 2 percent a year on the amount of capital  
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22 b. Reasonable costs and expenses for professional services, including legal and  
23 accounting services, related to forming and operating the fund.

24 c. Tax distributions to equity owners related to any projected increase in federal  
25 or state taxes.



1 d. An amount equal to a matching capital contribution, plus 5 percent of that  
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3 5. A fund manager who receives credits under subd. 1. shall retain the services  
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7 reported and disbursed under subd. 4. Annually, the independent 3rd party shall  
8 submit its evaluation to the fund manager and to the corporation and the corporation  
9 shall submit the evaluation to the joint committee on finance.

10 6. If a fund manager or investor fails to comply with the requirements under  
11 ~~this paragraph~~ <sup>subd. 3.</sup> the corporation shall rescind the allocation of credits to the fund  
12 manager and recapture the amount of any such credits claimed by the investor, in  
13 the manner determined by the corporation.

14 7. The corporation may allocate credits as provided under subd. 1. only if all  
15 of the following apply:

16 a. The corporation notifies the joint committee on finance in writing of its  
17 proposed allocation.

18 b. The cochairpersons of the joint committee on finance either fail to notify the  
19 corporation, within 14 working days after the date of the corporation's notification  
20 under subd. 7. a., that the committee has scheduled a meeting for the purpose of  
21 reviewing the proposed allocation or the cochairpersons of the joint committee on  
22 finance notify the corporation that the committee has approved the proposed  
23 allocation.

1           8. The corporation shall notify the department of revenue of all credits  
2 allocated to fund managers under this paragraph and the fund managers shall notify  
3 the corporation and the department of all such credits allocated to investors.

4 (END)

**2013-2014 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3854/P2ins  
JK:sac:jm

**Insert 2 - 7**

no 4

1       A fund manager who receives unallocated credits under this subdivision shall  
2       allocate the entire amount to investors and no investor may claim such credits unless  
3       the total amount committed for investment by the investors and the fund equals or  
4       exceeds 100 percent of the amount of the credits allocated to the fund manager. The  
5       corporation shall certify the amount of matching capital that is invested in order to  
6       meet this requirement and that capital shall not be subject to the distribution  
7       provided in subd. 4. The corporation shall not consider the reinvestment of any  
8       proceeds of a prior investment under this subdivision as matching capital

## Kreye, Joseph

---

**From:** Spencer, Matt  
**Sent:** Friday, January 10, 2014 3:16 PM  
**To:** Kreye, Joseph  
**Subject:** RE: One last thing

Actually, you can remove that last sentence. My apologies.

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

---

**From:** Kreye, Joseph  
**Sent:** Friday, January 10, 2014 3:09 PM  
**To:** Spencer, Matt  
**Subject:** RE: One last thing

Matt,

The last sentence indicates that no additional reporting is required after January 1, 2022. I'm not sure what that means. Does that mean no reports are due under the new subdivision 7 after January 1, 2022?

Joe

**Joseph T. Kreye**  
Senior Legislative Attorney  
Legislative Reference Bureau  
608 266 2263

---

**From:** Spencer, Matt  
**Sent:** Friday, January 10, 2014 11:52 AM  
**To:** Kreye, Joseph  
**Subject:** One last thing

Could we include something like this and I believe that's it:

7. A fund manager who receives credits under subd. 1 shall report the allocation of credits to the corporation within 10 days of such allocation. The corporation shall provide this report to the joint committee on finance. On or before January 31 of each year beginning in 2015, an allocatee fund manager shall submit an annual report to the corporation, prepared by an independent certified public accounting firm, containing the following information: the name of each business receiving investment and investment amount; the number of jobs created or retained; and any other information required by the corporation. The corporation shall provide this annual report to the joint committee on finance each year. No additional reporting shall be due after January 1, 2022.

Matthew Spencer  
Office of Representative Mike Kuglitsch

(608) 267-5158



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3854/P2

JK:sac:if

RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

in Friday 1-10

due Monday 1-13

gen cat

1 **AN ACT to create** 238.15 (3) (dm) of the statutes; **relating to:** the allocation of  
2 unused early stage seed investment credits.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 **SECTION 1.** 238.15 (3) (dm) of the statutes is created to read:  
4 238.15 (3) (dm) *Reallocation.* 1. Beginning in 2014, and in each year  
5 thereafter, the corporation may allocate at least 25 percent, but no more than 50  
6 percent, of the unallocated credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and  
7 76.638 to investment fund managers certified under sub. (2) so that the fund  
8 managers may allocate the credits to persons who make investments in businesses  
9 certified under sub. (1) and for which credits may be claimed under s. 71.07 (5b),

1 71.28 (5b), 71.47 (5b), or 76.638. A certified investment fund manager wishing to  
2 receive unallocated credits under this paragraph shall apply for the credits in the  
3 manner provided by the corporation. A fund manager who receives unallocated  
4 credits under this subdivision shall allocate the entire amount to investors and no  
5 investor may claim such credits unless the total amount committed for investment  
6 by the investors and the fund equals or exceeds 100 percent of the amount of the  
7 credits allocated to the fund manager. The corporation shall certify the amount of  
8 matching capital that is invested in order to meet this requirement and that capital  
9 shall not be subject to the distribution provided in subd. 4. The corporation shall not  
10 consider the reinvestment of any proceeds of a prior investment under this  
11 subdivision as matching capital.

12 2. A fund manager shall allocate the credits received under subd. 1. no later  
13 than 3 years after the date on which the credits are received. Credits that are not  
14 reallocated by the fund manager before the end of the 3-year period may be allocated  
15 by the corporation, as provided under par. (d).

16 3. For purposes of this paragraph, a fund manager shall make investments in  
17 businesses certified under sub. (1) no later than 3 years after the date on which the  
18 fund manager allocates credits received under subd. 1. The fund manager shall keep  
19 the investments invested in one or more businesses certified under sub. (1) for 5  
20 years.

21 4. With regard to the investments made as provided under this paragraph, the  
22 fund manager shall pay 50 percent of all distributions as a return of capital, or a  
23 return on capital, to the state, less the following amounts:

24 a. Management fees not exceeding 2 percent a year on the amount of capital  
25 invested in businesses certified under sub. (1).

1           b. Reasonable costs and expenses for professional services, including legal and  
2           accounting services, related to forming and operating the fund.

3           c. Tax distributions to equity owners related to any projected increase in federal  
4           or state taxes.

5           d. An amount equal to a matching capital contribution, plus 5 percent of that  
6           amount.

7           5. A fund manager who receives credits under subd. 1. shall retain the services  
8           of an independent 3rd party to evaluate the effectiveness of the reallocation of credits  
9           as provided under this paragraph and to ensure that funds are timely disbursed, that  
10          investments are made in businesses certified under sub. (1), and that profits are  
11          reported and disbursed under subd. 4. Annually, the independent 3rd party shall  
12          submit its evaluation to the fund manager and to the corporation and the corporation  
13          shall submit the evaluation to the joint committee on finance.

14          6. If a fund manager or investor fails to comply with the requirements under  
15          subd. 3., the corporation shall rescind the allocation of credits to the fund manager  
16          and recapture the amount of any such credits claimed by the investor, in the manner  
17          determined by the corporation.

18          7. The corporation may allocate credits as provided under subd. 1. only if all  
19          of the following apply:

20           a. The corporation notifies the joint committee on finance in writing of its  
21           proposed allocation.

22           b. The cochairpersons of the joint committee on finance either fail to notify the  
23           corporation, within 14 working days after the date of the corporation's notification  
24           under subd. 7. a., that the committee has scheduled a meeting for the purpose of  
25           reviewing the proposed allocation or the cochairpersons of the joint committee on



1 finance notify the corporation that the committee has approved the proposed  
2 allocation.

3 8. The corporation shall notify the department of revenue of all credits  
4 allocated to fund managers under this paragraph and the fund managers shall notify  
5 the corporation and the department of all such credits allocated to investors.

6

(END)

Insert 4-5

**2013-2014 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3854/P3ins  
JK:sac:jf

**Insert 4 - 5**

1           9. A fund manager who receives credits under subd. 1 shall report the allocation  
2 of credits to the corporation no later than 10<sup>s</sup> day after the allocation. The corporation  
3 shall provide the report to the joint committee on finance. On or before January 31  
4 of each year, beginning in 2015, a fund manager <sup>who</sup> allocates credits received under  
5 subd. 1. shall submit an annual report to the corporation, prepared by an  
6 independent certified public accounting firm, containing the name of each business  
7 receiving an investment and the investment amount, the number of jobs created or  
8 retained by the business, and any other information required by the corporation. The  
9 corporation shall provide the annual report to the joint committee on finance as soon  
10 as possible after it receives it.

*the report*

*the corporation*



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3854/P3  
JK:sac/ff

RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

due Friday 1-17

gen cat

- 1 **AN ACT to create** 238.15 (3) (dm) of the statutes; **relating to:** the allocation of  
2 unused early stage seed investment credits.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 3 **SECTION 1.** 238.15 (3) (dm) of the statutes is created to read:  
4 238.15 (3) (dm) *Reallocation.* 1. Beginning in 2014, and in each year  
5 thereafter, the corporation may allocate at least 25 percent, but no more than 50  
6 percent, of the unallocated credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and  
7 76.638 to investment fund managers certified under sub. (2) so that the fund  
8 managers may allocate the credits to persons who make investments in businesses  
9 certified under sub. (1) and for which credits may be claimed under s. 71.07 (5b),

1 71.28 (5b), 71.47 (5b), or 76.638. A certified investment fund manager wishing to  
2 receive unallocated credits under this paragraph shall apply for the credits in the  
3 manner provided by the corporation. A fund manager who receives unallocated  
4 credits under this subdivision shall allocate the entire amount to investors and no  
5 investor may claim such credits unless the total amount committed for investment  
6 by the investors and the fund equals or exceeds 100 percent of the amount of the  
7 credits allocated to the fund manager. The corporation shall certify the amount of  
8 matching capital that is invested in order to meet this requirement and that capital  
9 shall not be subject to the distribution provided in subd. 4. The corporation shall not  
10 consider the reinvestment of any proceeds of a prior investment under this  
11 subdivision as matching capital.

12 2. A fund manager shall allocate the credits received under subd. 1. no later  
13 than 3 years after the date on which the credits are received. Credits that are not  
14 reallocated by the fund manager before the end of the 3-year period may be allocated  
15 by the corporation, as provided under par. (d).

16 3. For purposes of this paragraph, a fund manager shall make investments in  
17 businesses certified under sub. (1) no later than 3 years after the date on which the  
18 fund manager allocates credits received under subd. 1. The fund manager shall keep  
19 the investments invested in one or more businesses certified under sub. (1) for 5  
20 years.

21 4. With regard to the investments made as provided under this paragraph, the  
22 fund manager shall pay 50 percent of all distributions as a return of capital, or a  
23 return on capital, to the state, less the following amounts:

24 a. Management fees not exceeding 2 percent a year on the amount of capital  
25 invested in businesses certified under sub. (1).

1 b. Reasonable costs and expenses for professional services, including legal and  
2 accounting services, related to forming and operating the fund.

3 c. Tax distributions to equity owners related to any projected increase in federal  
4 or state taxes.

5 d. An amount equal to a matching capital contribution, plus 5 percent of that  
6 amount.

7 4. A fund manager who receives credits under subd. 1. shall retain the services  
8 of an independent 3rd party to evaluate the effectiveness of the reallocation of credits  
9 as provided under this paragraph and to ensure that funds are timely disbursed, that  
10 investments are made in businesses certified under sub. (1), and that profits are  
11 reported and disbursed under subd. 4. 3. Annually, the independent 3rd party shall  
12 submit its evaluation to the fund manager and to the corporation and the corporation  
13 shall submit the evaluation to the joint committee on finance.

14 5. If a fund manager or investor fails to comply with the requirements under  
15 subd. 3, 2. the corporation shall rescind the allocation of credits to the fund manager  
16 and recapture the amount of any such credits claimed by the investor, in the manner  
17 determined by the corporation.

18 6. The corporation may allocate credits as provided under subd. 1. only if all  
19 of the following apply:

20 a. The corporation notifies the joint committee on finance in writing of its  
21 proposed allocation.

22 b. The cochairpersons of the joint committee on finance either fail to notify the  
23 corporation, within 14 working days after the date of the corporation's notification  
24 under subd. 7. 6. a., that the committee has scheduled a meeting for the purpose of  
25 reviewing the proposed allocation or the cochairpersons of the joint committee on

1 finance notify the corporation that the committee has approved the proposed  
2 allocation.

3 ~~8~~<sup>7</sup> The corporation shall notify the department of revenue of all credits  
4 allocated to fund managers under this paragraph and the fund managers shall notify  
5 the corporation and the department of all such credits allocated to investors.

6 ~~9~~<sup>8</sup> A fund manager who receives credits under subd. 1 shall report the allocation  
7 of credits to the corporation no later than 10 days after the allocation. The  
8 corporation shall provide the report to the joint committee on finance. On or before  
9 January 31 of each year, beginning in 2015, a fund manager who allocates credits  
10 received under subd. 1. shall submit an annual report to the corporation, prepared  
11 by an independent certified public accounting firm, containing the name of each  
12 business receiving an investment and the investment amount, the number of jobs  
13 created or retained by the business, and any other information required by the  
14 corporation. The corporation shall provide the annual report to the joint committee  
15 on finance as soon as possible after the corporation receives the report.

16 (END)

**Kreye, Joseph**

---

**From:** Spencer, Matt  
**Sent:** Tuesday, January 21, 2014 10:00 AM  
**To:** Kreye, Joseph  
**Subject:** LRB 3854

Could you please jacket LRB 3854. Also, we would like a request a fiscal estimate prior to introducing the legislation.

Thank you,

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3854/P4

JK:sac:ff

RUR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

m 1-21-14  
Twolay  
gen cat

- 1 AN ACT *to create* 238.15 (3) (dm) of the statutes; **relating to:** the allocation of  
2 unused early stage seed investment credits.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 3 SECTION 1. 238.15 (3) (dm) of the statutes is created to read:  
4 238.15 (3) (dm) *Reallocation.* 1. Beginning in 2014, and in each year  
5 thereafter, the corporation may allocate at least 25 percent, but no more than 50  
6 percent, of the unallocated credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and  
7 76.638 to investment fund managers certified under sub. (2) so that the fund  
8 managers may allocate the credits to persons who make investments in businesses  
9 certified under sub. (1) and for which credits may be claimed under s. 71.07 (5b),



1 71.28 (5b), 71.47 (5b), or 76.638. A certified investment fund manager wishing to  
2 receive unallocated credits under this paragraph shall apply for the credits in the  
3 manner provided by the corporation. A fund manager who receives unallocated  
4 credits under this subdivision shall allocate the entire amount to investors and no  
5 investor may claim such credits unless the total amount committed for investment  
6 by the investors and the fund equals or exceeds 100 percent of the amount of the  
7 credits allocated to the fund manager. The corporation shall certify the amount of  
8 matching capital that is invested in order to meet this requirement and that capital  
9 shall not be subject to the distribution provided in subd. 3. The corporation shall not  
10 consider the reinvestment of any proceeds of a prior investment under this  
11 subdivision as matching capital.

12 2. For purposes of this paragraph, a fund manager shall make investments in  
13 businesses certified under sub. (1) no later than 3 years after the date on which the  
14 fund manager allocates credits received under subd. 1. The fund manager shall keep  
15 the investments invested in one or more businesses certified under sub. (1) for 5  
16 years.

17 3. With regard to the investments made as provided under this paragraph, the  
18 fund manager shall pay 50 percent of all distributions as a return of capital, or a  
19 return on capital, to the state, less the following amounts:

20 a. Management fees not exceeding 2 percent a year on the amount of capital  
21 invested in businesses certified under sub. (1).

22 b. Reasonable costs and expenses for professional services, including legal and  
23 accounting services, related to forming and operating the fund.

24 c. Tax distributions to equity owners related to any projected increase in federal  
25 or state taxes.

1           d. An amount equal to a matching capital contribution, plus 5 percent of that  
2     amount.

3           4. A fund manager who receives credits under subd. 1. shall retain the services  
4     of an independent 3rd party to evaluate the effectiveness of the reallocation of credits  
5     as provided under this paragraph and to ensure that funds are timely disbursed, that  
6     investments are made in businesses certified under sub. (1), and that profits are  
7     reported and disbursed under subd. 3. Annually, the independent 3rd party shall  
8     submit its evaluation to the fund manager and to the corporation and the corporation  
9     shall submit the evaluation to the joint committee on finance.

10          5. If a fund manager or investor fails to comply with the requirements under  
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12     and recapture the amount of any such credits claimed by the investor, in the manner  
13     determined by the corporation.

14          6. The corporation may allocate credits as provided under subd. 1. only if all  
15     of the following apply:

16           a. The corporation notifies the joint committee on finance in writing of its  
17     proposed allocation.

18           b. The cochairpersons of the joint committee on finance either fail to notify the  
19     corporation, within 14 working days after the date of the corporation's notification  
20     under subd. 6. a., that the committee has scheduled a meeting for the purpose of  
21     reviewing the proposed allocation or the cochairpersons of the joint committee on  
22     finance notify the corporation that the committee has approved the proposed  
23     allocation.

## SECTION 1

7. The corporation shall notify the department of revenue of all credits allocated to fund managers under this paragraph and the fund managers shall notify the corporation and the department of all such credits allocated to investors.

8. A fund manager who receives credits under subd. 1 shall report the allocation of credits to the corporation no later than 10 days after the allocation. The corporation shall provide the report to the joint committee on finance. On or before January 31 of each year, beginning in 2015, a fund manager who allocates credits received under subd. 1. shall submit an annual report to the corporation, prepared by an independent certified public accounting firm, containing the name of each business receiving an investment and the investment amount, the number of jobs created or retained by the business, and any other information required by the corporation. The corporation shall provide the annual report to the joint committee on finance as soon as possible after the corporation receives the report.

**(END)**

**2013-2014 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3854/lins  
JK:sac:jf

**Insert A**

\* Under this bill, the Wisconsin Economic Development Corporation (WEDC) may allocate at least 25 percent, but no more than 50 percent of the unallocated early stage seed investment tax credits to certified investment fund managers so that the fund managers may allocate the credits to persons who make investments in certified businesses for which early stage seed investment credits may be claimed. A fund manager who receives the unallocated credits must allocate the entire amount to investors and no investor may claim the credits unless the total amount committed for investment equals or exceeds 100 percent of the amount of the credits allocated to the fund manager. Under the bill, the fund manager must pay 50 percent of all distributions from the investments as a return of capital, or a return on capital, to the state, less the amount of certain fees and costs.

Under the bill, a fund manager who receives unallocated early stage seed investment credits must report to WEDC the subsequent allocation of those credits no later than 10 days after the fund manager allocates the credits to investors. WEDC then submits the report to the joint committee on finance. The fund manager must also submit an annual report to WEDC that contains the name of each business receiving an investment and the investment amount, the number of jobs created or retained by the business, and any other information required by WEDC. WEDC also submits that report to the joint committee on finance.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

## Barman, Mike

---

**From:** Spencer, Matt  
**Sent:** Tuesday, January 28, 2014 4:11 PM  
**To:** Barman, Mike  
**Subject:** RE: LRB-3854/1 (un-introduced) (FE by WEDC - attached - for your review)

Thanks Mike,

I know with LRB we can ask for a rush, is there any such request for this. I appreciate your help..

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

---

**From:** Barman, Mike  
**Sent:** Tuesday, January 28, 2014 4:10 PM  
**To:** Spencer, Matt  
**Subject:** RE: LRB-3854/1 (un-introduced) (FE by WEDC - attached - for your review)

Talked to the FE coordinator at DOA ... she said she would be happy to also assign it to DOR for you.

**Mike Barman (Lead Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)

---

**From:** Spencer, Matt  
**Sent:** Tuesday, January 28, 2014 4:07 PM  
**To:** Barman, Mike  
**Subject:** RE: LRB-3854/1 (un-introduced) (FE by WEDC - attached - for your review)

Mike,

We just got off the phone regarding LRB 3854. Could we please have DOR complete a fiscal estimate for LRB 3854.

Thanks,

Matthew Spencer  
Office of Representative Mike Kuglitsch  
(608) 267-5158

---

**From:** Barman, Mike  
**Sent:** Monday, January 27, 2014 12:25 PM  
**To:** Rep.Kuglitsch

**Cc:** Spencer, Matt

**Subject:** LRB-3854/1 (un-introduced) (FE by WEDC - attached - for your review)

<< File: 13-3854feWEDCorg.pdf >>

**Drafter:** JK

**Subject:** Tax, Business - credits

**Mike Barman (Lead Program Assistant)**

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office

1 East Main Street, Suite 200, Madison, WI 53703

(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)

# Memo

To: Representative **Kuglitsch**

(The Draft's

Requester)

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.**

**LRB Number: LRB-3854**

**Version: “/1” (original)**

**Fiscal Estimate Prepared By: (agency abbr.) WEDC**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

★ ★

**Entered In Computer And Copy Sent To Requester Via E-Mail: 01 / 27 / 2013**

**To: LRB – Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Un-introduced Draft*

> **If re-drafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file “guts” ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.

> **If introduced** ... please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

**THIS DRAFT WAS INTRODUCED AS: 2013**

*AB 761*

**Barman, Mike**

---

**From:** Barman, Mike  
**Sent:** Monday, January 27, 2014 12:25 PM  
**To:** Rep.Kuglitsch  
**Cc:** Spencer, Matt  
**Subject:** LRB-3854/1 (un-introduced) (FE by WEDC - attached - for your review)



13-3854feWEDC...

**Drafter: JK**  
**Subject: Tax, Business - credits**

**Mike Barman (Lead Program Assistant)**

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)



# Memo

To: Representative **Kuglitsch**

(The Draft's Requester)

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2013 session draft.**

**LRB Number: LRB-3854**

**Version: “/1” (original)**

**Fiscal Estimate Prepared By: (agency abbr.) DOR**

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

\*\*\*\*\*

**Entered In Computer And Copy Sent To Requester Via E-Mail: 02 / 13 / 2013**

**To: LRB – Legal Section PA's**

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**THIS DRAFT WAS INTRODUCED AS: 2013**

AB 761

**Barman, Mike**

---

**From:** Barman, Mike  
**Sent:** Thursday, February 13, 2014 9:22 AM  
**To:** Rep.Kuglitsch  
**Cc:** Spencer, Matt  
**Subject:** LRB-3854/1 (un-introduced) (FE & Tech. Memo by DOR - attached - for your review)



FE-3854\_DOR.pdf



TM-3854\_DOR.p...

**Drafter: JK**  
**Subject: Tax, Business – credits**

**Mike Barman (Lead Program Assistant)**

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)